



Committee: LICENSING ACT SUB-COMMITTEE

Date: TUESDAY, 17 APRIL 2018

Venue: LANCASTER TOWN HALL

Time: 10.30 A.M.

A G E N D A

1. **Application for a Personal Alcohol Licence - Ryan Fish** (Pages 1 - 24)

Determination of Application Following Relevant Representation

ADMINISTRATIVE ARRANGEMENTS

(i) Membership

Councillors Claire Cozler (Chairman), June Ashworth and Sylvia Rogerson

(ii) Queries regarding this Agenda

Please contact Jane Glenton, Democratic Services - telephone: (01524) 582068 or email jglenton@lancaster.gov.uk.

SUSAN PARSONAGE,
CHIEF EXECUTIVE,
TOWN HALL,
DALTON SQUARE,
LANCASTER, LA1 1PJ

Published on Thursday, 5 April 2018.

LICENSING ACT SUB COMMITTEE

**Licensing Act 2003
Application for a Personal Alcohol Licence – Ryan Fish
Determination of Application Following Relevant
Representation
17th April 2018**

Report of Licensing Enforcement Officer

PURPOSE OF REPORT

To enable Members to determine an application for a Personal Licence under Section 117 of the Licensing Act 2003 submitted by Mr Ryan Fish following the receipt of a relevant representation.

This report is confidential by virtue of Section 100A (2) of the Local Government Act 1972.

RECOMMENDATIONS

The Sub Committee is requested to determine, in the light of the representation made, and having regard to the Council's Statement of Licensing Policy, the Licensing Act 2003 and any Regulations made under that Act, as well as Government Guidance, whether to grant the application as requested, or to reject the whole application. Members are reminded that they should state the reasons for their decision.

1.0 Introduction

- 1.1 On 6th March 2018, Mr Ryan Fish submitted an application under Section 117 of the Licensing Act 2003 for the grant of a personal alcohol licence.

Details of the application for his personal licence are set out in the application form, which is attached as Appendix No.1 to this report.

- 1.2 In accordance with Section 120 of the Licensing Act 2003 the Chief Officer of Police for the Lancashire Constabulary has submitted an objection to the grant of this application.

In accordance with that Section,

(2) The Authority must grant the licence if it appears to it that –

(a) The applicant is 18 or over;

- (b) He possesses a licensing qualification or is a person of a prescribed description;
 - (c) No personal licence held by him has been forfeited in the period of five years ending with the day the application was made; and
 - (d) He has not been convicted of any relevant offence or any foreign offence.
- (3) The Authority must reject the application if it appears that the applicant fails to meet the condition in paragraph (a), (b) or (c) of subsection (2)
- (4) If it appears to the Authority that the application meets the conditions in paragraphs (a), (b) and (c) of that subsection but fails to meet the condition in paragraph (d) of that subsection, the Authority must give the Chief Officer of Police for its area a notice to that effect.
- (5) Where having regard to –
- (a) any conviction of the applicant for a relevant offence, and
 - (b) any conviction of his for a foreign offence which the Chief Officer of Police considers to be comparable to a relevant offence,

the Chief Officer of Police is satisfied that granting the licence would undermine the crime prevention objective, he must, within the period of 14 days beginning with the day he received the notice under subsection (4), give the authority a notice stating the reasons why he is so satisfied (an “objection notice”).

For members’ information the list of “relevant offences” are contained in Schedule 4 of the Licensing Act 2003 and are attached at this report at Appendix No. 2.

2.0 Representation

- 2.1 On 6th March 2018 notification of objection to the grant of a personal alcohol licence to Mr Fish was received from PC 2338 Andrew Taylor, acting on behalf of the Chief Officer of Police. The reason given is that Lancashire Constabulary believe in light of relevant offences that granting a personal licence to Mr Fish would have the potential to undermine the crime and disorder licensing objective.

In the representation PC 2338 Andrew Taylor states;

“Mr Fish was a registered SIA door supervisor in the Lancaster area. On 29th October 2016 whilst off-duty Mr Fish did assault 3 separate persons in a licensed premises where there were 4 crimes associated with these attacks. This resulted in Mr Fish being convicted at Lancaster Magistrates Court on 6th December 2016 for Battery x 2 and assault occasioning actual bodily harm. As a result of these convictions Mr Fish had his SIA security badge revoked and was put on a 2 year pub-watch ban in Lancaster which he is still currently serving and expires on 3rd November 2018. Mr Fish has breached his ban on 2 separate occasions. Mr Fish also has 2 x PNDs for being drunk and disorderly in a public place, one on 18th June 2013 and one on 3rd September 2013”

The table below lists the details of Mr Fish’s relevant offence;

	Date Of Conviction	Date of Offence	Offence	Disposal	Court
1.	6 th Dec 2016	29 th Oct 2016	1. Battery	Suspended imprisonment 26 weeks wholly suspended 12 months Costs £85.00 Victim surcharge £115.00 Unpaid work rqd Compensation £75.00	Lancashire Magistrates
			2. Assault occasioning actual bodily harm	Suspended imprisonment 26 weeks wholly suspended 12 months Unpaid work rqd Compensation £400.00	
			3. Battery	Suspended imprisonment 26 weeks wholly suspended 12 months Unpaid work rqd Compensation £75.00	
			4. Battery	Suspended imprisonment 26 weeks wholly suspended 12 months Unpaid work rqd	

				Compensation £75.00	
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The Police objection notice is attached at Appendix No. 3

3.0 Notice of Hearing

In accordance with the relevant Regulations, the parties have been given notice of the hearing. A copy of the Notice of Hearing is attached for Members' attention at Appendix No. 4.

It was not felt necessary to request any clarification from the parties. The parties have been required, in accordance with the Regulations, to indicate at least five working days before the hearing whether they intend to attend and/or be represented at the hearing and if they wish any witness to appear at the hearing. Any responses and any further documentation submitted by any of the parties after the circulation of this Agenda will be circulated to Members in advance of the meeting. Members are reminded that documentary or other information submitted on the day of the hearing may only be taken into account with the consent of the Sub-Committee and all the parties.

4.0 Matter for Decision

4.1 The Sub-Committee is requested to consider the application and the objection notice.

This is in accordance with Section 120 (7) of the Act which provides-

- (a) the authority must hold a hearing to consider the objection notice, unless the applicant, the chief officer of police and the authority agree that it is unnecessary, and
- (b) having regard to the notice must –
 - (i) reject the application if it considers it appropriate for the promotion of the crime prevention objective to do so, and
 - (ii) grant the application in any other case.

4.2 Members are reminded that the licensing objectives are:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance; and
- the protection of children from harm.

5.0 Government Guidance under Section 182 of the Licensing Act 2003

5.1 Members may wish to note that the Guidance issued by the Government under Section 182 of the Licensing Act 2003 states that -

Certain offences can never become spent. However, where an applicant is able to demonstrate that an offence in question took place so long ago and that they no longer have any propensity to reoffend, a licensing authority may consider that the individual circumstance of the case are so exceptional and compelling and any risk to the community so diminished that it is right to grant the application.

If an application is refused, the applicant will be entitled to appeal against the decision to the Magistrates' Court.

Similarly, if the application is granted despite a police objection notice, the Chief Officer of Police is entitled to appeal against the Licensing Authority's determination. Licensing Authorities are therefore expected to record the full reasons for any decision that they make.

6.0 Relevant Parts of the Council's Statement of Licensing Policy

With regard to Personal Licences, the Policy provides as follows:

25.2. Provided that an applicant fulfils the requirements of Section 120 (2) (a), (b) and (c) of the Act, a licence will be granted unless the applicant has a relevant conviction or a foreign conviction as defined in the Act. In the event of such a conviction, the application will be referred to the Police, and if the Police give an objection notice, a hearing will generally be held. Whilst each application and objection will be considered on its merits, the application will normally be rejected if the Licensing Authority considers this appropriate for the crime prevention objective.

7.0 Natural Justice and Human Rights

7.1 Members are reminded that they must follow the rules of natural justice, and must also consider human rights implications.

In particular, in accordance with Article 6, all parties are entitled to a fair hearing.

7.2 Consideration also needs to be given to the right to respect for private and family life and home, contained within Article 8, although this is a qualified right, and interference is permitted where this is in accordance with the law, or is necessary in a democratic society in the interests of public safety or the prevention of crime and disorder, or for the protection of the rights and freedoms of others. Article 1 of the First Protocol provides that every person is entitled to the peaceful enjoyment of his possessions, although again this right is qualified in the public interest.

8.0 Conclusion

2.1 Members should consider whether to grant or refuse the application. Members are reminded that they should state the reasons for their decision.

CONCLUSION OF IMPACT ASSESSMENT (including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

None.

FINANCIAL IMPLICATIONS

Financial Services have not been consulted as there are no financial implications.

LEGAL IMPLICATIONS

Legal implications are contained within the report. In accordance with Section 181 and Schedule 5 of the Licensing Act 2003, the parties have a right of appeal to the Magistrates' Court within 21 days

BACKGROUND PAPERS

None

Contact Officer: David Eglin
Telephone: 01524 582387
E-mail: deglin@lancaster.gov.uk
Ref: DWE

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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SCHEDULES

SCHEDULE 4

Section 113

PERSONAL LICENCE: RELEVANT OFFENCES

- 1 An offence under this Act.
- 2 An offence under any of the following enactments—
 - (a) Schedule 12 to the London Government Act 1963 (c. 33) (public entertainment licensing);
 - (b) the Licensing Act 1964 (c. 26);
 - (c) the Private Places of Entertainment (Licensing) Act 1967 (c. 19);
 - (d) section 13 of the Theatres Act 1968 (c. 54);
 - (e) the Late Night Refreshment Houses Act 1969 (c. 53);
 - (f) section 6 of, or Schedule 1 to, the Local Government (Miscellaneous Provisions) Act 1982 (c. 30);
 - (g) the Licensing (Occasional Permissions) Act 1983 (c. 24);
 - (h) the Cinemas Act 1985 (c. 13);
 - (i) the London Local Authorities Act 1990 (c. vii).
- 3 An offence under the Firearms Act 1968 (c. 27).
- 4 An offence under section 1 of the Trade Descriptions Act 1968 (c. 29) (false trade description of goods) in circumstances where the goods in question are or include alcohol.
- 5 An offence under any of the following provisions of the Theft Act 1968 (c. 60)—
 - (a) section 1 (theft);
 - (b) section 8 (robbery);
 - (c) section 9 (burglary);
 - (d) section 10 (aggravated burglary);
 - (e) section 11 (removal of articles from places open to the public);
 - (f) section 12A (aggravated vehicle-taking), in circumstances where subsection (2)(b) of that section applies and the accident caused the death of any person;
 - (g) section 13 (abstracting of electricity);
 - (h) section 15 (obtaining property by deception);
 - (i) section 15A (obtaining a money transfer by deception);
 - (j) section 16 (obtaining pecuniary advantage by deception);
 - (k) section 17 (false accounting);
 - (l) section 19 (false statements by company directors etc.);
 - (m) section 20 (suppression, etc. of documents);
 - (n) section 21 (blackmail);
 - (o) section 22 (handling stolen goods);
 - (p) section 24A (dishonestly retaining a wrongful credit);

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- (q) section 25 (going equipped for stealing etc.).
- 6 An offence under section 7(2) of the Gaming Act 1968 (c. 65) (allowing child to take part in gaming on premises licensed for the sale of alcohol).
- 7 An offence under any of the following provisions of the Misuse of Drugs Act 1971 (c. 38)—
- (a) section 4(2) (production of a controlled drug);
 - (b) section 4(3) (supply of a controlled drug);
 - (c) section 5(3) (possession of a controlled drug with intent to supply);
 - (d) section 8 (permitting activities to take place on premises).
- 8 An offence under either of the following provisions of the Theft Act 1978 (c. 31)—
- (a) section 1 (obtaining services by deception);
 - (b) section 2 (evasion of liability by deception).
- 9 An offence under either of the following provisions of the Customs and Excise Management Act 1979 (c. 2)—
- (a) section 170 (disregarding subsection (1)(a)) (fraudulent evasion of duty etc.);
 - (b) section 170B (taking preparatory steps for evasion of duty).
- 10 An offence under either of the following provisions of the Tobacco Products Duty Act 1979 (c. 7)—
- (a) section 8G (possession and sale of unmarked tobacco);
 - (b) section 8H (use of premises for sale of unmarked tobacco).
- 11 An offence under the Forgery and Counterfeiting Act 1981 (c. 45) (other than an offence under section 18 or 19 of that Act).
- 12 An offence under the Firearms (Amendment) Act 1988 (c. 45).
- 13 An offence under any of the following provisions of the Copyright, Designs and Patents Act 1988 (c. 48)—
- (a) section 107(1)(d)(iii) (public exhibition in the course of a business of article infringing copyright);
 - (b) section 107(3) (infringement of copyright by public performance of work etc.);
 - (c) section 198(2) (broadcast etc. of recording of performance made without sufficient consent);
 - (d) section 297(1) (fraudulent reception of transmission);
 - (e) section 297A(1) (supply etc. of unauthorised decoder).
- 14 An offence under any of the following provisions of the Road Traffic Act 1988 (c. 52)—
- (a) section 3A (causing death by careless driving while under the influence of drink or drugs);
 - (b) section 4 (driving etc. a vehicle when under the influence of drink or drugs);
 - (c) section 5 (driving etc. a vehicle with alcohol concentration above prescribed limit).
 - [^{F1}(d) section 6(6) (failing to co-operate with a preliminary test).]

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Annotations:

Amendments (Textual)

F1 Sch. 4 para. 14(d) inserted (25.4.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), **ss. 123(2), 157(1)** (with s. 123(5)); S.I. 2012/1129, art. 2(d)

- 15 An offence under either of the following provisions of the Food Safety Act 1990 (c. 16) in circumstances where the food in question is or includes alcohol—
- (a) section 14 (selling food or drink not of the nature, substance or quality demanded);
 - (b) section 15 (falsely describing or presenting food or drink).
- 16 An offence under section 92(1) or (2) of the Trade Marks Act 1994 (c. 26) (unauthorised use of trade mark, etc. in relation to goods) in circumstances where the goods in question are or include alcohol.
- 17 An offence under the Firearms (Amendment) Act 1997 (c. 5).
- [^{F2}18 A sexual offence, being an offence —
- (a) listed in Part 2 of Schedule 15 to the Criminal Justice Act 2003 ^{F3}, other than the offence mentioned in paragraph 95 (an offence under section 4 of the Sexual Offences Act 1967 (procuring others to commit homosexual acts));
 - [^{F4}(aa) listed in Schedule 3 to the Sexual Offences Act 2003 (sexual offences for the purposes of notification and orders);]
 - (b) an offence under section 8 of the Sexual Offences Act 1956 (intercourse with a defective);
 - (c) an offence under section 18 of the Sexual Offences Act 1956 (fraudulent abduction of an heiress).]

Annotations:

Amendments (Textual)

F2 Sch. 4 paras. 18, 19 substituted (16.9.2005) by [The Licensing Act 2003 \(Personal licence: relevant offences\) \(Amendment\) Order 2005 \(S.I. 2005/2366\)](#), **art. 2**

F3 2003 c. 44.

F4 Sch. 4 para. 18(aa) inserted (31.1.2017 for specified purposes) by [Policing and Crime Act 2017 \(c. 3\)](#), **ss. 139(2), 183(1)(5)(e)**

- [^{F5}19 A violent offence, being any offence which leads, or is intended or likely to lead, to a person's death or to physical injury to a person, including an offence which is required to be charged as arson (whether or not it would otherwise fall within this definition).]

Annotations:

Amendments (Textual)

F5 Sch. 4 paras. 18, 19 substituted (16.9.2005) by [The Licensing Act 2003 \(Personal licence: relevant offences\) \(Amendment\) Order 2005 \(S.I. 2005/2366\)](#), **art. 2**

- [^{F6}19A An offence listed in Part 1 of Schedule 15 to the Criminal Justice Act 2003 (specified violent offences).]

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Annotations:

Amendments (Textual)

F6 Sch. 4 para. 19A inserted (31.1.2017 for specified purposes) by [Policing and Crime Act 2017 \(c. 3\)](#), **ss. 139(3), 183(1)(5)(e)**

20 An offence under section 3 of the Private Security Industry Act 2001 (c. 12) (engaging in certain activities relating to security without a licence).

[^{F7}21 An offence under section 46 of the Gambling Act 2005 if the child or young person was invited, caused or permitted to gamble on premises in respect of which a premises licence under this Act had effect.]

Annotations:

Amendments (Textual)

F7 Sch. 4 para. 21 inserted "after paragraph 20" (1.9.2007) by [Gambling Act 2005 \(c. 19\)](#), **ss. 356, 358, Sch. 16 para. 20(4)** (with **ss. 352, 354, Sch. 16 para. 21**); S.I. 2006/3272, **art. 2(4)**

[^{F8}[^{F9}22] An offence under the Fraud Act 2006.]

Annotations:

Amendments (Textual)

F8 Sch. 4 para. 21 inserted (15.1.2007) by [Fraud Act 2006 \(c. 35\)](#), **ss. 14(1), 15(1), Sch. 1 para. 34**; S.I. 2006/3200, **art. 2**

F9 Sch. 4 para. 21 is renumbered as para. 22 (in force in accordance with art. 2 of the amending instrument) by [The Licensing Act 2003 \(Amendment of Schedule 4\) Order 2007 \(S.I. 2007/2075\)](#), **art. 2**

[^{F10}22ZA An offence under any of the following provisions of the Violent Crime Reduction Act 2006—

- (a) section 28 (using someone to mind a weapon);
- (b) section 36 (manufacture, import and sale of realistic imitation firearms).]

Annotations:

Amendments (Textual)

F10 Sch. 4 para. 22ZA inserted (31.1.2017 for specified purposes) by [Policing and Crime Act 2017 \(c. 3\)](#), **ss. 139(4), 183(1)(5)(e)**

[^{F11}[^{F12}22A]An offence under regulation 6 of the Business Protection from Misleading Marketing Regulations 2008 (offence of misleading advertising) in circumstances where the advertising in question relates to alcohol or to goods that include alcohol.

Annotations:

Amendments (Textual)

F11 Sch. 4 paras. 22, 23 inserted (26.5.2008) by virtue of [The Consumer Protection from Unfair Trading Regulations 2008 \(S.I. 2008/1277\)](#), **reg. 30(1), Sch. 2 para. 71** (with **reg. 28(2)(3)**)

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F12 Second Sch. 4 para. 22 renumbered as Sch. 4 para. 22A (25.4.2012) by Police Reform and Social Responsibility Act (2011 c. 13), s. 123(3); S.I. 2012/1129, art. 2(d)

23 An offence under regulation 8, 9, 10, 11 or 12 of the Consumer Protection from Unfair Trading Regulations 2008 (offences relating to unfair commercial practices) in circumstances where the commercial practice in question is directly connected with the promotion, sale or supply of alcohol or of a product that includes alcohol.]

Annotations:

Amendments (Textual)

F11 Sch. 4 paras. 22, 23 inserted (26.5.2008) by virtue of The Consumer Protection from Unfair Trading Regulations 2008 (S.I. 2008/1277), reg. 30(1), **Sch. 2 para. 71** (with reg. 28(2)(3))

[^{F13}23A An offence under any of the following provisions of the Psychoactive Substances Act 2016—

- (a) section 4 (producing a psychoactive substance);
- (b) section 5 (supplying, or offering to supply, a psychoactive substance);
- (c) section 7 (possession of psychoactive substance with intent to supply);
- (d) section 8 (importing or exporting a psychoactive substance).]

Annotations:

Amendments (Textual)

F13 Sch. 4 para. 23A inserted (26.5.2016) by Psychoactive Substances Act 2016 (c. 2), s. 63(2), **Sch. 5 para. 5(3)**; S.I. 2016/553, reg. 2

[^{F14}23B An offence listed in section 41 of the Counter-Terrorism Act 2008 (terrorism offences).]

Annotations:

Amendments (Textual)

F14 Sch. 4 para. 23B inserted (31.1.2017 for specified purposes) by Policing and Crime Act 2017 (c. 3), **ss. 139(5), 183(1)(5)(e)**

[^{F15}24 An offence under section 1 of the Criminal Attempts Act 1981 of attempting to commit an offence that is a relevant offence.

Annotations:

Amendments (Textual)

F15 Sch. 4 paras. 24-26 inserted (25.4.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), **ss. 123(4), 157(1)** (with s. 123(5)); S.I. 2012/1129, art. 2(d)

25 An offence under section 1 of the Criminal Law Act 1977 of conspiracy to commit an offence that is a relevant offence.

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Annotations:

Amendments (Textual)

F15 Sch. 4 paras. 24-26 inserted (25.4.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), [ss. 123\(4\), 157\(1\)](#) (with s. 123(5)); S.I. 2012/1129, art. 2(d)

26 The offence at common law of conspiracy to defraud.]

Annotations:

Amendments (Textual)

F15 Sch. 4 paras. 24-26 inserted (25.4.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), [ss. 123\(4\), 157\(1\)](#) (with s. 123(5)); S.I. 2012/1129, art. 2(d)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 5A inserted by 2015 c. 20 s. 67(2) Sch. 17
- s. 2(1A) inserted by 2015 c. 20 s. 67(1)
- s. 10(4)(e) and word inserted by 2011 c. 13 s. 121(3)(b)
- s. 13(4)(ha) inserted by 2016 c. 19 Sch. 4 para. 3
- s. 16(2A) inserted by 2016 c. 19 Sch. 4 para. 4(4)
- s. 27(1A) inserted by 2016 c. 19 Sch. 4 para. 5
- s. 42(2A) inserted by 2016 c. 19 Sch. 4 para. 6(2)
- s. 42(5ZA) inserted by 2016 c. 19 Sch. 4 para. 6(3)
- s. 42(8)(9) inserted by 2016 c. 19 Sch. 4 para. 6(5)
- s. 45(2A) inserted by 2016 c. 19 Sch. 4 para. 8(3)
- s. 47(3A) inserted by 2016 c. 19 Sch. 4 para. 9(4)
- s. 47(7)(aa) inserted by 2016 c. 19 Sch. 4 para. 9(5)
- s. 48(2A)(2B) inserted by 2016 c. 19 Sch. 4 para. 10(4)
- s. 48(5A) inserted by 2016 c. 19 Sch. 4 para. 10(6)
- s. 113(2A) inserted by 2016 c. 19 Sch. 4 para. 13(3)
- s. 113(4)-(8) inserted by 2016 c. 19 Sch. 4 para. 13(4)
- s. 115(2A) inserted by 2016 c. 19 Sch. 4 para. 14(3)
- s. 120(2)(aa) inserted by 2016 c. 19 Sch. 4 para. 15(2)(a)
- s. 120(5)(c) inserted by 2016 c. 19 Sch. 4 para. 15(5)(b)
- s. 120(5A)(5B) inserted by 2016 c. 19 Sch. 4 para. 15(6)
- s. 120(7A) inserted by 2016 c. 19 Sch. 4 para. 15(9)
- s. 122(2A) inserted by 2016 c. 19 Sch. 4 para. 16(3)
- s. 124(3)(c) inserted by 2016 c. 19 Sch. 4 para. 18(3)(c)
- s. 124(3A)(3B) inserted by 2016 c. 19 Sch. 4 para. 18(4)
- s. 124(4)(b)(i)(ii) substituted for words by 2016 c. 19 Sch. 4 para. 18(5)(c)
- s. 124(5A) inserted by 2016 c. 19 Sch. 4 para. 18(6)
- s. 125(3)(a) substituted for words in s. 125(3) by 2016 c. 19 Sch. 4 para. 19(2)
- s. 125(3)(b) inserted by 2016 c. 19 Sch. 4 para. 19(3)
- s. 132(2A)(2B) inserted by 2016 c. 19 Sch. 4 para. 20(3)
- s. 140(2)(e) inserted by 2015 c. 20 s. 67(4)(b)
- s. 141(2)(e) inserted by 2015 c. 20 s. 67(5)(b)
- s. 143(2)(e) inserted by 2015 c. 20 s. 67(6)(b)
- s. 144(2)(e) inserted by 2015 c. 20 s. 67(7)(b)
- s. 147A(4)(c) inserted by 2015 c. 20 s. 67(8)(b)
- s. 153(4)(d) inserted by 2015 c. 20 s. 67(9)(b)
- s. 179(1A) inserted by 2016 c. 19 Sch. 4 para. 22(2)
- s. 192A inserted by 2016 c. 19 Sch. 4 para. 1
- s. 193(1) s. 193 renumbered as s. 193(1) by 2016 c. 19 Sch. 4 para. 30(2)
- s. 193(2) inserted by 2016 c. 19 Sch. 4 para. 30(3)
- s. 197(3)(cza) inserted by 2015 c. 20 s. 67(12)(a)
- s. 197A 197B inserted by 2011 c. 13 s. 121(2)
- Sch. 4 para. 7A inserted by 2016 c. 19 Sch. 4 para. 21
- Sch. 5 para. 7(3A) inserted by 2016 c. 19 Sch. 4 para. 25(4)
- Sch. 5 para. 17(2A) inserted by 2016 c. 19 Sch. 4 para. 27(3)
- Sch. 5 para. 17(5A) inserted by 2016 c. 19 Sch. 4 para. 27(4)
- Sch. 5 Pt. 4 inserted by 2016 c. 19 Sch. 4 para. 28

Document is Restricted

Appendix 4

LANCASTER CITY COUNCIL

LICENSING ACT 2003 AND THE LICENSING ACT 2003 (HEARINGS)
REGULATIONS 2005

NOTICE OF HEARING

To: The Applicant: Ryan Fish

Responsible Authority: Chief Constable of Lancashire Constabulary

THE LANCASTER CITY COUNCIL, AS LICENSING AUTHORITY, HEREBY GIVES YOU NOTICE that a hearing before a Sub-Committee of the Licensing Act Committee to consider relevant representations in respect of an application under Section 117 of the Licensing Act 2003 in respect of an application for a Personal Alcohol Licence submitted by **Ryan Fish** will take place on **Tuesday, 17th April 2018** at Lancaster Town Hall, commencing at **10.30 a.m.**

AND TAKE NOTICE THAT each party as listed above is required to give to the Licensing Authority by no later than five working days before the day of the hearing a notice in writing stating whether that party intends to attend or be represented at the hearing, and whether he or she considers a hearing to be unnecessary.

AND TAKE NOTICE THAT if a party wishes any other person (other than the person he/she intends to represent him at the hearing) to appear at the hearing, the notice given by that party and referred to in the preceding paragraph must contain a request for permission for such other person to appear at the hearing, and must set out details of the name of that person and a brief description of the point or points on which that person may be able to assist in connection with the matter to be considered by the Sub-Committee.

GIVEN this 19th day of March 2018 by the Lancaster City Council as Licensing Authority.

INFORMATION TO ACCOMPANY NOTICE OF HEARING

1. Right of attendance, assistance and representation

A party may attend the hearing and may be assisted or represented by any person, whether or not that person is legally qualified.

The hearing will generally take place in public. However, the Sub-Committee may exclude the public from all or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking part in public. In such circumstances, a party and any person assisting or representing a party may be treated as a member of the public. The Sub-Committee will exclude the public (and the parties and their representatives) during the decision making process.

The Sub-Committee may require any person attending the hearing who in its opinion is behaving in a disruptive manner to leave the hearing, and may refuse to permit that person to return, or permit him to return only on such conditions as the Sub-Committee may specify. However, such a person may, before the end of the hearing, submit to the Sub-Committee in writing any information which he would have been entitled to give orally had he not been required to leave.

2. Representations and Supporting Information

At the hearing a party shall be entitled to:

- (a) Give further information as applicable in response to a point upon which notice has been given to that party that clarification is required. (Note – if such clarification is required from a party this will have been indicated in the Notice of Hearing).
- (b) Question any other party, but only if given permission by the Sub-Committee; and
- (c) Address the Sub-Committee

3. Failure of Parties to attend the Hearing

If a party has given notice that he does not intend to attend or be represented at a hearing, the hearing may proceed in his absence.

If a party who has not so indicated fails to attend or be represented at a hearing, the Sub-Committee may, where it considers it to be necessary in the public interest, adjourn the hearing to a specified date, or hold the hearing in the party's absence. If the hearing proceeds in a party's absence, the Sub-Committee will consider and give appropriate weight to the application, representation or notice given by that party in their absence.

4. Representations and Evidence

A party who wishes to rely on information or documentary evidence that has not been submitted in advance of the issue of the Notice of Hearing should ensure that such information or evidence, together with sufficient copies for all the parties, is submitted to the Licensing Manager as soon as possible before the day of the hearing.

Parties are reminded that documentary or other information submitted on the day of the hearing may only be taken into account with the consent of all the other parties.

A party who wishes to produce audio/visual evidence should make such evidence available as soon as practical, and should give a minimum of two clear working days notice to the Licensing Manager to facilitate arrangements for the appropriate equipment to be available at the hearing.

5. Procedure

A summary of the procedure that will normally be followed at the hearing is enclosed.

It should be noted that this is a general procedure intended to cover matters that will normally be applicable at all hearings.

However, depending on the circumstances of each individual case, it is recognised that other issues may need to be considered as preliminary points at the hearing. These may include (but are not limited to):

- Whether to proceed in the absence of a party
- Whether to admit new documents/information submitted at the hearing
- Whether it is in the public interest to exclude members of the public from the hearing or any part of the hearing (other than the decision making process)
- Whether any party wished to withdraw representations previously submitted

6. Special Needs

Any person who intends to attend a hearing and who has special needs, for example in connection with access, language, hearing or vision, should inform the Licensing Manager as soon as practical prior to the day of the hearing, so that appropriate provision or arrangements may be made.

**PROCEDURE TO BE FOLLOWED AT HEARINGS TO WHICH THE LICENSING
ACT 2003 (HEARINGS) REGULATIONS 2005 APPLY**

1. The Chairman will introduce the Members and the Legal Adviser and Democratic Support Officer.
2. The Chairman will ask the parties to introduce themselves and any persons with them.
3. The Chairman will confirm that there is no reason why any of the three sub-committee Members should not participate in this matter.
4. The Chairman will confirm that this is a discussion led by the authority, that any questions should generally be put through the Chairman, and that cross-examination will only be permitted if the Sub-Committee considers that it is necessary.
5. The Chairman will ask the parties if they have any requests to cross-examine, and such requests will be considered by the Sub-Committee.
6. The Sub-Committee will consider any requests from the parties for permission for another person to appear at the hearing.
7. The Chairman will explain to the parties that the procedure to be followed will be the published one (unless the circumstances of the case require the normal procedures to be varied) – that is,
 - that the Licensing Manager (or his representative) will introduce the details of the application, the reason for the hearing, and the documentation,
 - that each party making representations will address the sub-committee in turn and will call other persons where permission has been given
 - that the applicant/licence holder will present his case and will call other persons where permission has been given
 - that Members may ask questions of all parties and persons
 - that questions from the parties must be directed through the Chairman unless cross-examination has been permitted under 4 above
 - that all parties will have the opportunity to make a closing statement, with the applicant/licence holder having the final word
 - that the Sub-Committee will withdraw to make its decision and formulate the reasons for the decision in private, and will ask its Legal Adviser and the Democratic Support Officer to join it in order to assist in documenting the decision and the reasons, or to provide clarification on any point. The decision will be announced in public and confirmed in writing. (In certain circumstances, the decision may not be made on the same day as the hearing). In the event that the Legal Adviser has been asked for clarification on any point then the point raised and the advice given will be declared to all parties.
8. The Chairman will indicate the maximum period of time each party will be allowed in which to present their case, and will seek comments from the parties before the Sub-Committee makes its final indication on this point.
9. The hearing will then proceed following the procedure in 7 above. The Chairman will arrange for reasonable comfort breaks throughout the hearing.